

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

THEODORE WASHINGTON,
Petitioner-Appellant,

v.

CHARLES L. RYAN,
Respondent-Appellee.

Nos. 05-99009
07-15536

D.C. No.
CV-95-02460-JAT

ORDER

Filed December 31, 2015

ORDER

THOMAS, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Federal Rule of Appellate Procedure 35(a) and Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

Judges Murguia and Hurwitz did not participate in the deliberations or vote in this case.